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14 **UNITED STATES DISTRICT COURT**
NORTHERN DISTRICT OF CALIFORNIA

15 **CALIFORNIA RESTAURANT**
16 **ASSOCIATION,**

17 **Plaintiff,**

18 **v.**

19 **THE CITY AND COUNTY OF SAN**
20 **FRANCISCO and THE SAN FRANCISCO**
21 **DEPARTMENT OF PUBLIC HEALTH,**

22 **Defendants.**

) **Case No. CV-08-3247CW**
)
) **UNOPPOSED MOTION OF**
) **PROFESSOR ROBERT POST OF**
) **YALE LAW SCHOOL, AND**
) **JENNIFER L. POMERANZ AND**
) **KELLY D. BROWNELL OF THE**
) **RUDD CENTER FOR FOOD POLICY**
) **AND OBESITY AT YALE**
) **UNIVERSITY FOR LEAVE TO FILE**
) **BRIEF AS AMICI CURIAE IN**
) **SUPPORT OF DEFENDANTS AND IN**
) **OPPOSITION TO PLAINTIFF'S**
) **MOTION FOR DECLARATORY**
) **RELIEF AND PRELIMINARY**
) **INJUNCTION**
)
) **Date: September 4, 2008**
) **Time: 9 a.m.**
) **Judge: Claudia Wilken**
) **Location: Courtroom 2**

1 Pursuant to Local Rule 7-11, Professor Robert Post, Jennifer L. Pomeranz, and Kelly D.
2 Brownell (collectively, “amici”) hereby move this Court for an order allowing them to file a brief
3 as *amici curiae* in support of Defendants and in opposition to Plaintiff’s Motion for Declaratory
4 Relief and a Preliminary Injunction.

5 This motion for leave to file is unopposed. Amici sought and received consent from both
6 parties, through their respective counsel, to file this *amicus* brief.

7 Amici believe their brief will aid the Court in its consideration of the legal issues raised
8 in Plaintiff’s Motion for Declaratory Relief and Preliminary Injunction. In particular, the
9 proposed *amicus curiae* brief addresses the First Amendment issues presented by this case.

10 Amici have significant experience with menu labeling ordinances such as San
11 Francisco’s, and considerable expertise on the constitutional status of commercial speech.
12 Robert Post, J.D., Ph.D., is the David Boies Professor of Law at Yale University Law School.
13 He is one of the nation’s preeminent First Amendment scholars and has contributed and edited
14 numerous books and authored over 80 law review articles, including: *Transparent and Efficient*
15 *Markets: Compelled Commercial Speech and Coerced Commercial Association in United Foods,*
16 *Zauderer, and Abood,* 40 Valparaiso U. Law Rev. 555 (2006); *Compelled Subsidization of*
17 *Speech: Johanns v. Livestock Marketing Association,* 2005 Supreme Court Rev. 195 (2005); and
18 *The Constitutional Status of Commercial Speech,* 48 UCLA Law Rev. 1 (2000). Amicus Post is
19 a key advisor to the Rudd Center for Food Policy and Obesity at Yale University (“Rudd
20 Center”).

21 Jennifer L. Pomeranz, J.D., M.P.H., is the Director of Legal Initiatives at the Rudd Center
22 and has worked extensively on implementing, defending, and supporting menu labeling
23 legislation across the country.

24 Kelly D. Brownell, Ph.D., is the Director of the Rudd Center and is a professor in the
25 Department of Psychology at Yale University, where he also serves as Professor of
26 Epidemiology and Public Health. Amicus Brownell has published 14 books and more than 300
27 scientific articles and chapters.

1 In light of the fact that this motion is unopposed, and for good cause shown, amici
2 respectfully request that the Court grant their motion for leave to file a brief as *amici curiae*.

3 Dated: July 31, 2008

Respectfully submitted,

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5 /s/ Barbara J. Chisholm

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